

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MIKE and KRIS FOSTER, a marital  
community,

Plaintiffs,

v.

THE STATE OF WASHINGTON,  
DEPARTMENT OF LABOR AND  
INDUSTRIES and JANINE REES, an  
individual,

Defendants.

CASE NO. C19-1310-JCC

ORDER

This matter comes before the Court on Defendants' motion for summary judgment (Dkt. No. 13) and Plaintiffs' motion to extend the discovery deadline (Dkt. No. 22). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS Defendants' motion for summary judgment and DENIES Plaintiffs' motion to extend the discovery deadline for the reasons explained herein.

**I. BACKGROUND**

In 2016, the Westwater Homeowners' Association hired Diamond Roofing, Inc. ("DRI"), Plaintiffs' former roofing company, to remove and replace roofs of the Westwater Condominiums. (Dkt. No. 14-1 at 3, 7.) DRI served as the general contractor for the project and did not retain subcontractors. (*Id.* at 8.) Leo Farret, an employee of DRI, served as the foreman

1 for the Westwater project and oversaw several laborers. (*Id.* at 4–5.) The roofs to be replaced  
2 contained silver paint. (*Id.* at 7–8.)

3 DRI removed the old roofs between September 21 and September 26, 2016, and the new  
4 roofs were substantially complete by September 30, 2016. (*Id.* at 6–9; *see generally* Dkt. No. 14-  
5 3.) Removed material was moved via a garbage chute to the ground south of the southern-most  
6 building before laborers moved the material to a nearby dump truck. (Dkt. No. 14-2 at 3.)  
7 Plaintiffs and those working on the Westwater project were not trained to handle asbestos-  
8 containing materials (“ACM”) and did not have Asbestos Hazard Emergency Response Act  
9 (“AHERA”) certification. (Dkt. Nos. 14-1 at 7, 9–10; *see* Dkt. No. 14-9 at 3–4) (describing  
10 AHERA training as relating to how to properly collect samples from job sites). DRI did not test  
11 the roofs for ACM prior to removing them. (*See* Dkt. No. 14-1 at 42.)

12 While the Westwater project was ongoing, a tenant of the Westwater Condominiums  
13 complained about “possible roofer exposure to asbestos.” (Dkt. No. 14-4 at 4.) Plaintiff Mike  
14 Foster testified that DRI learned of the complaint and that he collected a sample of roofing  
15 material from the project site’s dump truck. (*See* Dkt. No. 14-1 at 16–17.) Mr. Foster further  
16 testified that he transported the single sample to Asbestos Northwest, an asbestos testing  
17 company, in a sealed plastic envelope. (*Id.* at 17.) Asbestos Northwest’s chain of custody form  
18 for the sample did not contain a receipt date, an analysis date, or the name of the person who  
19 provided the sample. (*See* Dkt. No. 14-1 at 22.) Mr. Foster testified that he directed Shannon  
20 Goodman, an employee of DRI, to tell Asbestos Northwest to not include the collection date. (*Id.*  
21 at 19–20.) Mr. Foster surmised that the date was omitted because DRI had not collected the  
22 sample prior to beginning the Westwater project, as would have been proper. (*See id.* at 19.)

23 The owner of Asbestos Northwest, Cathy Butler, was deposed in this action. In contrast  
24 to Mr. Foster’s testimony, Butler testified that DRI submitted three samples for testing on  
25 September 30, 2016, that each sample was in a separate Ziploc bag, and that a younger person,  
26

1 not Mr. Foster, had dropped them off. (*See* Dkt. No. 14-9 at 6–8, 11–12.)<sup>1</sup> Butler further testified  
2 that Goodman had asked Asbestos Northwest to complete three separate chain of custody forms  
3 for the three samples, although customarily one form would be used for multiple samples taken  
4 from the same job site. (*See id.* at 8–10.) Butler testified that while the samples all tested  
5 negative for ACM, she could not say which project from which the samples originated, who  
6 collected the samples, or the date on which the samples were collected. (*Id.* at 18; *see* Dkt. No.  
7 14-7 at 1–5) (Asbestos Northwest report finding no ACM in “WW Sample 3”). Butler also stated  
8 that any information indicating that the WW Sample 3 originated at Westwater “would have  
9 been put in there after [Northwest Asbestos] sent it to [DRI].” (Dkt. No. 14-9 at 15.)

10 On October 3, 2016, Stephen Fry of the Puget Sound Clean Air Agency (“PSCAA”) visited the Westwater project site. (*Id.*; Dkt. No. 14-3 at 1.) Fry was told of DRI’s practice of  
11 using the garbage chute to remove material and found remnants of silver paint near the debris  
12 pile under the garbage chute and around a nearby sidewalk. (*See* Dkt. No. 14-3 at 1–2.) Fry  
13 collected two samples of silver paint and one, taken from the sidewalk, ultimately tested positive  
14 for ACM. (*See id.*; Dkt. No. 14-5 at 1–6.)

15 On October 4, 2016, PSCAA sent DRI notices of violation, which included failure to (1)  
16 conduct a survey prior to beginning renovation work, (2) properly dispose of removed ACM, and  
17 (3) mark storage containers with warning signs. (*See* Dkt. Nos. 14-3 at 3, 14-6 at 1.) On that  
18 same day, Goodman sent Asbestos Northwest’s report to Fry. (Dkt. No. 14-10 at 4.) Fry  
19 forwarded the email to Defendant Janine Rees, a Washington Safety and Health Act inspector,  
20 who in turn asked Butler why information was missing from the chain of custody form. (*Id.* at 2–  
21 3.) Butler told Rees about how the samples had been delivered and of Goodman’s request that  
22 each sample be given a separate chain of custody form. (*Id.* at 1–2.)

23 On October 5, 2016, Rees visited the Westwater project site for her initial investigation.  
24

---

25  
26 <sup>1</sup> Mr. Foster testified that he did not “have a reason to disbelieve” that the samples were dropped off on September 30, 2016, because he did not remember. (Dkt. No. 14-1 at 21.)

1 (Dkt. No. 14-4 at 4.) During her initial inspection, Rees saw silver paint in several areas and  
2 directed Farret to remove the waste himself or to hire a cleanup contractor to remove the waste.  
3 (*See* Dkt. No. 16-1 at 3–4.) Over the next several weeks, Rees spoke with Farret about DRI’s  
4 handling of ACM and construction materials, spoke with various people about DRI’s cleanup  
5 efforts, and interviewed Mr. Foster and Farret. (Dkt. No. 16 at 2.) Rees did not collect samples  
6 during her investigation; she relied exclusively on laboratory results obtained by PSCAA. (*Id.*)

7 Initially, DRI conducted cleanup efforts in the Westwater project site. (*Id.*) Following  
8 those efforts, on October 19, 2016, Fry found silver paint at the Westwater project site that tested  
9 positive for ACM. (*Id.*) On October 20, 2016, Rees visited the site and found additional amounts  
10 of silver paint. (*Id.* at 2–3.) DRI then hired Puget Sound Abatement (“PSA”), which conducted  
11 cleanup efforts for the Westwater project site on October 25 and 26, 2016. (*Id.* at 2.) But when  
12 Rees visited the site on November 1, 2016, she again found silver paint. (*Id.* at 3.) On November  
13 8, 2016, Rees inspected the job site with PSA’s worksite project manager and found silver paint  
14 in small trees adjacent to the garbage chute used by DRI. (*Id.*) Rees theorized that because the  
15 garbage chute was not “dust tight,” roofing debris may have escaped and settled into the trees  
16 when DRI used the garbage chute to transport debris to the ground. (*Id.*) Rees concluded her  
17 investigation on January 12, 2017, and on January 26, 2017, Defendant Washington State  
18 Department of Labor & Industries (“L&I”) issued a citation to DRI for multiple violations of the  
19 Washington Administrative Code. (*Id.* at 3–4; *see* Dkt. No. 16-2 at 1–10.) The citation imposed  
20 on DRI a total penalty of \$47,250.00. (Dkt. No. 16-2 at 1.)

21 On July 15, 2019, Plaintiffs sued Defendants in King County Superior Court, asserting  
22 claims for violation of 42 U.S.C. § 1983, negligent supervision, and outrage. (Dkt. No. 1-2 at 6.)  
23 Plaintiffs’ claims center on their allegation that Rees either wrongfully planted ACM or  
24 wrongfully alleged that Plaintiffs were not in compliance with asbestos safety regulations. (*Id.* at  
25 5.) Defendants removed the case on August 16, 2019, (Dkt. No. 1), and now move for summary  
26 judgment dismissal of Plaintiffs’ claims, (Dkt. No. 13).

1 **II. DISCUSSION**

2 **A. Federal Rule of Civil Procedure 56(d) Continuance**

3 Plaintiffs move for a continuance of Defendants' motion for summary judgment pursuant  
4 to Federal Rule of Civil Procedure 56(d). (*See* Dkt. No. 18 at 9–11.) Plaintiffs argue that they  
5 require Rees's annual performance reviews for the years 2002, 2003, 2004, 2005, and 2006 and  
6 that they have not been able to take the deposition of Dan Lafley, Asbestos Northwest's lab  
7 manager, due to the COVID-19 pandemic. (*See id.* at 10; Dkt. No. 18-1 at 6.)

8 "If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot  
9 present facts essential to justify its opposition [to a motion for summary judgment], the court  
10 may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or  
11 declarations or to take discovery; or (3) issue any other appropriate order." Fed. R. Civ. P. 56(d).  
12 "The requesting party must show: (1) it has set forth in affidavit form the specific facts it hopes  
13 to elicit from further discovery; (2) the facts sought exist; and (3) the sought-after facts are  
14 essential to oppose summary judgment." *Family Home & Fin. Ctr., Inc. v. Fed. Home Loan*  
15 *Mortg. Corp.*, 525 F.3d 822, 827 (9th Cir. 2008). If the movant fails to satisfy these elements, the  
16 motion may be denied and summary judgment may be granted. *Id.*

17 Here, in response to Plaintiffs' discovery requests regarding Rees's annual evaluations,  
18 Defendants notified Plaintiffs that they have "consulted with several people at L&I and asked  
19 that HR conduct a thorough search related to the question of missing performance evaluation  
20 [sic]" and "concluded that there simply were no performance evaluations completed of Ms. Rees  
21 for the period of time in question . . . and thus no additional documents exist." (Dkt. No. 19-3 at  
22 1.) Plaintiffs' affidavit does not provide a reason for concluding that the annual evaluations exist  
23 despite Defendants' exhaustive search. (*See generally* Dkt. No. 18-1 at 1–2.) Moreover,  
24 Plaintiffs' counsel simply states that "I believe that the missing Performance Evaluations may  
25 lead to the discovery of admissible evidence regarding claims of professional misconduct." (*See*  
26 *id.* at 2.) This does not establish that annual evaluations spanning from 2002 to 2006 are

1 necessary to oppose Defendants' motion for summary judgment dismissal of Plaintiffs' claims,  
2 which concern misconduct that allegedly occurred in 2016. (*See generally* Dkt. Nos. 1-2, 13.)

3 Similarly, Plaintiffs argue that Lafley has "described the tactics Officer Rees has used to  
4 create asbestos violations so that citations could be issued" but do not establish how such a  
5 description is essential to oppose Defendants' motion for summary judgment. (*See* Dkt. Nos. 18  
6 at 10, 18-1 at 2-3.) And, notably, Lafley refused to sign a declaration prepared by Plaintiffs'  
7 regarding his alleged statements. (*See* Dkt. No. 18 at 6.). In fact, Lafley has now executed a  
8 declaration which "vehemently den[ies]" Plaintiffs' claims about his statements and asserts that  
9 he "refused to sign [Plaintiffs'] declaration because [he] did not want to sign a declaration that  
10 was not true." (*See* Dkt. No. 19-5 at 1-2.) As it is unreasonable to assume that Lafley would  
11 perjure himself upon sitting for any future deposition, Plaintiffs have failed to establish that their  
12 sought facts exist.

13 In sum, Plaintiffs have not identified facts they hope to elicit from further discovery that  
14 exist and which are essential to oppose Defendants' motion for summary judgment. *See Family*  
15 *Home & Fin. Ctr., Inc.*, 525 F.3d at 827. Therefore, Plaintiffs' request for a continuance pursuant  
16 to Rule 56(d) is DENIED.

### 17 **B. Summary Judgment Legal Standard**

18 "The court shall grant summary judgment if the movant shows that there is no genuine  
19 dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R.  
20 Civ. P. 56(a). Material facts are those that may affect the outcome of the case, and a dispute  
21 about a material fact is genuine if there is sufficient evidence for a reasonable jury to return a  
22 verdict for the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986).  
23 In deciding whether there is a genuine dispute of material fact, the court must view the facts and  
24 justifiable inferences to be drawn therefrom in the light most favorable to the nonmoving party.  
25 *Id.* at 255. But a motion for summary judgment cannot be defeated by either "conclusory  
26 allegations unsupported by factual data," *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) or

1 “rank speculation,” *McSherry v. City of Long Beach*, 584 F.3d 1129, 1138 (9th Cir. 2009).

2 “The moving party bears the initial burden of establishing the absence of a genuine issue  
3 of material fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). “If a moving party fails to  
4 carry its initial burden of production, the nonmoving party has no obligation to produce anything,  
5 even if the nonmoving party would have the ultimate burden of persuasion at trial.” *Nissan Fire  
6 & Marine Ins. Co. v. Fritz Cos.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000). But once the moving  
7 party properly supports its motion, the nonmoving party “must come forward with ‘specific facts  
8 showing that there is a genuine issue for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio  
9 Corp.*, 475 U.S. 574, 587 (1986) (quoting Fed. R. Civ. P. 56(e)). Ultimately, summary judgment  
10 is appropriate against a party who “fails to make a showing sufficient to establish the existence  
11 of an element essential to that party’s case, and on which that party will bear the burden of proof  
12 at trial.” *Celotex*, 477 U.S. at 322.

### 13 C. 42 U.S.C. § 1983 Claims

#### 14 1. Defendant L&I

15 Defendants move for summary judgment on Plaintiffs’ § 1983 claim against L&I. (Dkt.  
16 No. 13 at 10–11.) Under § 1983, “[e]very person who, under color of [state law], subjects . . .  
17 any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities  
18 secured by the Constitution . . . shall be liable to the party injured[.]” Courts have repeatedly held  
19 that the word “person,” as used in § 1983, does not include states or state agencies. *See, e.g., Will  
20 v. Michigan Dep’t of State Police*, 491 U.S. 58, 64 (1989) (“A State is not a person within the  
21 meaning of § 1983.”); *Maldonado v. Harris*, 370 F.3d 945, 951 (9th Cir. 2004) (“State agencies .  
22 . . are not ‘persons’ within the meaning of § 1983, and are therefore not amenable to suit under  
23 that statute.”); *Webb v. Sloan*, 330 F.3d 1158, 1163–64 (9th Cir. 2003) (“[M]unicipal liability  
24 under § 1983 cannot be founded on a theory of respondeat superior.”). Here, Plaintiffs  
25 acknowledge that L&I “is a governmental agency that hired Defendant Janine Rees.” (Dkt. No.  
26 1-2 at 2.) As a state agency, L&I is “not amenable to suit under” § 1983. *See Maldonado*, 370

1 F.3d at 951. Accordingly, Defendants’ motion for summary judgment is GRANTED on this  
 2 ground.

3 *2. Defendant Rees*

4 Defendants move for summary judgment on Plaintiffs’ § 1983 claim against Rees,  
 5 arguing that she is entitled to qualified immunity. (Dkt. No. 13 at 11–18.)

6 Generally, a government official performing a discretionary function is provided  
 7 qualified immunity, which shields them from liability for civil damages when sued in their  
 8 individual capacity, “unless the official violated a statutory or constitutional right that was  
 9 clearly established at the time of the challenged conduct.” *Acosta v. City of Costa Mesa*, 718  
 10 F.3d 800, 824 (9th Cir. 2013) (citing *Reichle v. Howards*, 566 U.S. 658, 664 (2012)); *see*  
 11 *Anderson v. Creighton*, 483 U.S. 635, 638–39 (1987) (collecting cases); *Community House, Inc.*  
 12 *v. City of Boise, Idaho*, 623 F.3d 945, 964 (9th Cir. 2010).<sup>2</sup> An official’s fabrication of evidence  
 13 may support a claim for violation of the Due Process Clause of the Fourteenth Amendment. *See*  
 14 *Costanich v. Dep’t of Soc. & Health Servs.*, 627 F.3d 1101, 1108 & 1108 n.11 (9th Cir. 2010)  
 15 (quoting *Jones v. State*, 242 P.3d 825, 831–32 (Wash. 2010)) (stating that fabrication of evidence  
 16 in civil child abuse proceedings violates due process clause “when a liberty or property interest is  
 17 at stake” and recognizing the Washington Supreme Court’s conclusion that ““the deprivation of  
 18 liberty based on fabricated evidence is a violation of a person’s constitutional right to due  
 19 process”” in the civil context “where property interests protected by the due process clause” are  
 20 at stake.).

21 To determine whether an official is entitled to qualified immunity, the court first  
 22 determines whether “the facts alleged show the officer’s conduct violated a constitutional right”  
 23 when “[t]aken in the light most favorable to the party asserting the injury.” *Acosta*, 718 F.3d at  
 24 824 (quoting *Saucier v. Katz*, 533 U.S. 194, 201 (2001)). But, even if a complaint adequately

---

25  
 26 <sup>2</sup> Plaintiffs appear to assert their § 1983 claim against Rees in her individual capacity.  
 (See Dkt. No. 1-2 at 1, 6–7.)



1 alleges facts that violate clearly established law, summary judgment is appropriate “if discovery  
2 fails to uncover evidence sufficient to create a genuine issue as to whether the defendant in fact  
3 committed those acts.” *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985). The court next determines  
4 whether the right was “clearly established,” *i.e.*, “the contours of the right [are] sufficiently clear  
5 that a reasonable official would understand that what he is doing violates that right.” *Acosta*, 718  
6 F.3d at 824 (quoting *Anderson*, 483 U.S. at 639). “When [the qualified immunity] test is properly  
7 applied, it protects ‘all but the plainly incompetent or those who knowingly violate the law.’”  
8 *Hernandez v. City of San Jose*, 897 F.3d 1125, 1132–33 (9th Cir. 2018) (quoting *Ashcroft v. al-*  
9 *Kidd*, 563 U.S. 731, 743 (2011)).

10 Here, Plaintiffs claim that Rees deprived them of their constitutional rights without due  
11 process of law in violation of § 1983, alleging that she either “wrongfully planted ACM” at the  
12 Westwater project site or “wrongfully alleged that Plaintiffs had not been in compliance” with  
13 asbestos safety regulations. (Dkt. No. 1-2 at 5–6.) The record shows that Plaintiffs have not  
14 located a witness to corroborate their claim that Rees planted ACM at the Westwater project site.  
15 (See Dkt. Nos. 14-1 at 26, 14-8 at 3, 18 at 8.) Plaintiffs’ allegations of Rees’s past misconduct  
16 are not supported by the record or admissible evidence and are not relevant to Plaintiffs’ claims  
17 of misconduct in this case. See *Blair Foods, Inc. v. Ranchers Cotton Oil*, 610 F.2d 665, 667 (9th  
18 Cir. 1980); (Dkt. Nos. 14-1 at 47; 15 at 1–2; 18 at 4–6, 9; 18-1 at 2–3; 18-2 at 3–5; 19-5 at 1–2.)  
19 And deposition testimony establishes that the ACM found at the Westwater project site came  
20 from the removed roofs via DRI’s work, not misconduct by Rees. (See Dkt. Nos. 14-1 at 32–33,  
21 14-2 at 4–6.)

22 In response to the evidence in the record and Defendants’ motion for summary judgment,  
23 Plaintiffs point to “circumstantial evidence” they claim “demonstrate[s] a reasonable inference  
24 that the jury could find in their favor.” (Dkt. No. 18 at 8.) But that “circumstantial evidence,”  
25 unsupported by citation to the record or evidence substantiating Plaintiffs’ accompanying  
26

1 declarations,<sup>3</sup> is insufficient to show a genuine dispute of material fact on the issue of whether  
 2 Rees's conduct violated Plaintiffs' constitutional rights. (*See id.* at 9.) Plaintiffs' reliance on  
 3 Asbestos Northwest's testing of Plaintiffs' sample is misplaced: the results of that test do not  
 4 weigh on the issue of whether Rees planted ACM at the site, and the lack of information on the  
 5 sample's chain of custody forms (apparently done at Plaintiffs' behest) precludes verification  
 6 that the sample came from the Westwater project site (*See* Dkt. Nos. 14-1 at 19, 33; 14-9 at 16,  
 7 18.) The mere fact that Rees continued to find ACM at the site after DRI and PSA conducted  
 8 cleanup efforts, absent more, does not establish that Rees planted that material. (*See* Dkt. No. 18  
 9 at 9.) Plaintiffs' assertion that "new PVC membrane completely covered the roof such that none  
 10 of the previously existing roof debris could have blown off" does not address evidence that ACM  
 11 may have been dispersed by DRI's moving of roofing debris through the garbage chute and to  
 12 the dump truck. (*See* Dkt. Nos. 14-2 at 3–6, 16 at 2.) Plaintiffs' allegation that Rees planted  
 13 asbestos warning tape, (*see* Dkt. No. 18 at 3, 9), is belied by Fry's report that he placed asbestos  
 14 warning tape at the site, (Dkt. No. 19-2 at 2). And Plaintiffs' complaint that Defendants did not  
 15 take samples from the roof to test whether the ACM on the ground matched that in the removed  
 16 roofs (Dkt. No. 18 at 9), does not weigh on the issue of whether Rees planted ACM at the  
 17 Westwater project site.<sup>4</sup>

18 In sum, Plaintiffs have not offered evidence sufficient to create a genuine dispute of  
 19 material fact on the issue of whether Rees fabricated evidence or otherwise violated Plaintiffs'  
 20 constitutional rights contrary to § 1983. *See Costanich*, 627 F.3d at 1108 & 1108 n.11; *Acosta*,  
 21 718 F.3d at 824; *Mitchell*, 472 U.S. at 526. Accordingly, Rees is entitled to qualified immunity

---

22 <sup>3</sup> Plaintiffs state that their response "is based on the Declarations of Plaintiff Mike Foster,  
 23 and the undersigned legal counsel." (Dkt. No. 18 at 1; *see* Dkt. Nos. 18-1, 18-2.) Plaintiffs'  
 24 response is otherwise devoid of citations to the record. *See* Fed. R. Civ. P. 56(c); (*see generally*  
 25 Dkt. No. 18).

26 <sup>4</sup> Notably, Plaintiffs' argument attempts to shift the burden of testing the original roofing  
 material from them to Defendants, contrary to the applicable provisions of the Washington  
 Administrative Code. *See* Wash. Admin. Code § 296-62-07721(2)(b)(ii),

1 from Plaintiffs' § 1983 claims against her in her individual capacity, and Defendants' motion for  
2 summary judgment is GRANTED on this ground.

3 **D. Supplemental Jurisdiction**

4 District courts have original jurisdiction over "actions arising under the Constitution,  
5 laws, or treaties of the United States." 28 U.S.C. § 1331; *see also* 28 U.S.C. § 1441(b). "The  
6 decision whether to continue to exercise supplemental jurisdiction over state law claims after all  
7 federal claims have been dismissed lies within the district court's discretion." *Foster v. Wilson*,  
8 504 F.3d 1046, 1051 (9th Cir. 2007) (citing 28 U.S.C. 1367(c)(3); *Fang v. United States*, 140  
9 F.3d 1243–44 (9th Cir. 1998)). While not mandatory, "in the usual case in which all federal-law  
10 claims are eliminated before trial, the balance of factors to be considered under the pendent  
11 jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward  
12 declining to exercise jurisdiction over the remaining state-law claims." *Carnegie-Mellon Univ. v.*  
13 *Cohill*, 484 U.S. 343, 350 n.7 (1988).

14 Plaintiffs' remaining claims for negligent supervision and outrage arise under  
15 Washington law. (*See* Dkt. Nos. 1-2 at 6, 13 at 18–23.) Given the dismissal of Plaintiffs' federal  
16 § 1983 claims, the Court declines to exercise supplemental jurisdiction over Plaintiffs' remaining  
17 state law claims, which will be remanded to the King County Superior Court for further  
18 adjudication. *See* 28 U.S.C. § 1367(c)(3); *Carnegie-Mellon Univ.*, 484 U.S. at 350 n.7.

19 **III. CONCLUSION**

20 For the foregoing reasons, Defendants' motion for summary judgment (Dkt. No. 13) is  
21 GRANTED as to Plaintiffs' 42 U.S.C. § 1983 claims. The Court declines to exercise  
22 supplemental jurisdiction over Plaintiffs' state law claims and DIRECTS the Clerk to REMAND  
23 this case to King County Superior Court. The Court further DIRECTS the Clerk to transmit a  
24 certified copy of this order to the clerk of the King County Superior Court. Plaintiffs' motion for  
25 an extension of time to complete discovery (Dkt. No. 22) is DENIED as moot.

26 //

1 DATED this 21st day of July 2020.

2  
3  
4 

5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26